

Remarks

This response is submitted within the shortened statutory period of three months to respond to the final office action dated April 6, 2005. Therefore, no petition and fee for extension of time is filed with this response.

Please enter the amendments and remarks in the response into the prosecution history of the subject application without prejudice or disclaimer.

Hereinafter, the claims that are pending prior to the entry of the amendments in this response are called "currently pending claims." This response amends currently pending claims 1, 22, and 43. Claim 9 is canceled and replaced with claim 59. Upon amendment the above US patent application will have 3 independent claims (currently pending claims 1, 31 and 32) and a total of 33 claims (currently pending claims 3, 4, 13-15, 18-21, 23-42, and 58; amended claims 1, 22, and 43; and new claim 59). The Applicant previously paid for 48 total claims and 3 independent claims. Therefore, no fee for excess claims is due with this response.

1. Objections to the claims.

The Examiner objects to currently pending claims 1, 9 and 43 on page 2 of the office action.

While not acquiescing to the substance of the objection, Applicant submits that claim 1 was amended to delete the objected-to phrase "apart from" to "in addition to," which latter phrase even more clearly indicates that the claimed pharmaceutical contains one or more pharmacologically active ingredients as well as a compound of formula I. It is further submitted that the correction suggested by the Examiner does not address the basis of the alleged problem, and would have in fact rendered the claim unclear; it is submitted that Applicant's alternative amendment should suffice, to the extent that any actual objection was proper.

Applicant submits that the Examiner's objection to claim 9 was baseless, as it is

routine Patent Office practice to amend claims so that dependency is not in direct order; the published patent normally corrects the order of the claims, but even then, it is respectfully submitted that there is nothing improper about claims depending from later numbered claims. Nevertheless, in the interest of expediting prosecution, Applicant has canceled claim 9 and replaced it with identical claim 59.

In claim 43, the subject of the phrase "wherein __ is 0.01% to 10% by weight" was inadvertently canceled in the prior amendment. The subject of the phrase, "phosphatidylcholine," has been replaced.

2. Rejections of claims under 35 U.S.C. 112, second paragraph.

The Examiner rejects currently pending claims 22 and 24 under 35 U.S.C. 112, second paragraph, as being indefinite on page 3 of the office action. The Applicant respectfully traverses these rejections. Furthermore, these rejections are now moot and should be withdrawn because amended claim 22 and currently pending claim 24 are not indefinite, as explained below.

Claim 22 is amended herein to specify that the antineoplastic adjunct drug consists of folic acid replenishers, rather than includes them, thereby clarifying the composition of the antineoplastic adjunct drug. A minor typographical error was also corrected.

The expression "comprises" was replaced by the expression "is" in claim 24 in the prior amendment. This basis for rejection therefore is in error.

Withdrawal of the rejections is therefore respectfully requested.

CONCLUSION

Reconsideration and examination of the present application as amended is respectfully requested. Applicant submits that the application is now in condition for allowance. Allowance of the application at an early date is respectfully requested.

Applicant reserves the right to seek protection for any unclaimed subject matter either subsequently in the prosecution of the present case or in a divisional or

continuation application.

This response amends currently pending Claims 1, 22, and 43, and replaces claim 9 with claim 59. The amendments and deletions that are described in the preceding sentence were done to more fully claim the invention and/or to improve the wording of the claims and were not done to overcome rejections under 35 U.S.C. 112, to overcome the prior art, or to overcome any other rejections or objections. The amendments and deletions that are described in the first sentence of this paragraph shall not be considered necessary to overcome the prior art, shall not be considered necessary to overcome rejections under 35 U.S.C. § 112, and shall not be considered necessary to overcome any other rejections or objections.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to Deposit Account No. 12-0415. In particular, if this Response is not timely filed, then the Commissioner is authorized to treat this Response as including a petition to extend the time period pursuant to 37 C.F.R. § 1.136(a) requesting an extension of time of the number of months necessary to make this Response timely filed; and the petition fee due in connection therewith may be charged to deposit account No. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 6, 2005

Lonnie Louie
(Name of Person Transmitting)

Signature

Date

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